

NO. 48118-9

**COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON**

STATE OF WASHINGTON, RESPONDENT

v.

DARIAN LIVINGSTON, APPELLANT

Appeal from the Superior Court of Pierce County
The Honorable G. Helen Whitener

No. 14-1-02112-9

BRIEF OF RESPONDENT

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Was the search of the defendant's vehicle lawful under RCW 9A.631 when there was a valid arrest warrant for the defendant that indicated there was reasonable cause to believe that the defendant violated a condition of community custody? (Appellant's Assignments of Error A-E¹).
2. Did the trial court properly find that the defendant failed to meet his burden under the affirmative defense specified by RCW 9A.76.170 when the defendant missed a court date due to him being incarcerated in a separate facility for a separate DOC violation? (Appellant's Assignments of Error E-G).

B. STATEMENT OF THE CASE.

1. Procedure

On June 2, 2014, DARINA DEMETRIUS LIVINGSTON, hereinafter "defendant" was charged with unlawful possession of a firearm

¹ The appellant assigns error to the trial court's conclusion that the defendant is guilty of counts I-V. The appellant provides no argument as to how the trial court erred in finding the defendant guilty of counts II, IV, and V. To the extent the defendant has raised an issue as to those counts, this court should deem those issues as abandoned. See *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992).

in the first degree and unlawful possession of a controlled substance with the intent to deliver (heroin). CP 1-2.

While his case was pending, the defendant signed to appear for an omnibus hearing, which was to be held on August 25, 2014. The defendant failed to appear for his omnibus hearing and a warrant was issued. The warrant was quashed on September 4, 2014.

On March 19, 2015, the defendant was charged by amended information with unlawful possession of a firearm in the first degree, unlawful possession of a controlled substance with the intent to deliver cocaine, bail jumping, unlawful possession of a controlled substance (oxycodone), and unlawful possession of a controlled substance (hydrocodone/dihydrocodeinone). CP 33-35. On August 11, 2015, the defendant waived jury trial and proceeded with a trial to the bench. CP 65. After the State rested its case the court found that the State had not presented sufficient evidence to support the possession of cocaine with the intent to deliver charge. RP 365. On that charge the State was left proceeding with unlawful possession of cocaine. RP 368.

At the close of the case, the defense conceded that the court should find him guilty of count II, unlawful possession of cocaine, count IV, unlawful possession of oxycodone, and count V, unlawful possession of hydrocodone. RP 430, 432-438. The court found the defendant guilty of

all counts, including unlawful possession of a firearm in the first degree and bail jumping. *Id.* With respect to the affirmative defense that was asserted as to the bail jumping charge, the court made a detailed oral ruling. RP 433. The court found, in part:

Now, in regards to Count III, there was an affirmative defense raised by the defendant. That would be covered by WPIC 19.17, which covers the uncontrollable circumstances as a defense to the charge of bail jumping.

It states, "If a defendant is charged with bail jumping that, one, uncontrollable circumstances prevented the defendant from personally appearing in court or failing to surrender for service of sentence." In this case it's the first. I am finding that that has not been shown by a preponderance of the evidence, which is the defendant's burden on the affirmative defense.

Keep in mind there are three elements and they are in conjunction, so if one is probative, it basically defeats the defense; however, I will address the second aspect. So number one was not shown uncontrollable circumstances prevented Mr. Livingston from appearing for his court appearance for his court hearing because the circumstances given by Mr. Livingston, I believe, is more in line with or in conjunction with No. 2.

No. 2 states, "The defendant did not contribute to the creation of such circumstances in reckless disregard of the requirement to appear or surrender." In this case, the argument is that there was a probation violation, which resulted in Mr. Livingston being incarcerated or held by the Department of Corrections, which was the basis for his failure to appear. However, No. 1 indicates the uncontrollable circumstances needs to be pretty much an act of God. We don't have that here.

Mr. Livingston's actions, since he was on probation, that was the reason why he was held by the Department of Corrections; therefore, his own actions created the violation, which contributed to the circumstances as to why he was held and, therefore, unable to appear in court. So the defense did not prove by a preponderance of the evidence No. 2

And No. 3, of course, is not required but it states, "The defendant appeared or surrendered as soon as such circumstances cease to exist." And it does appear, in fact, that he appeared within a day or two of having been released.

However, as I indicated, one, two, and three needs to be proven by the defense by a preponderance of the evidence, and that has not been done in this case.

So I am finding that Mr. Livingston is guilty of the charge of bail jumping beyond a reasonable doubt.

RP 433-435.

The court imposed a sentence under the drug offender sentencing alternative and imposed a total of 50.75 months in custody and 50.75 months of community custody. CP 80-97.

2. Facts²

a. CrR 3.5/3.6 Facts

Community corrections officer (CCO) Thomas Grabski was driving in Tacoma when he observed the defendant at a car wash. RP 53.

² In the appellant's opening brief, "undisputed facts" are presented. The facts as stated by the appellant, however, appear to be from the CrR 3.5/3.6 hearing testimony only, which can be found at RP 51-125.

Grabski believed the defendant had a Department of Corrections (DOC) warrant at the time. RP 54. CCO Grabski requested that members of the Tacoma Gang Unit, Officers Boyd and Young, contact the defendant. RP 55-56. CCO Grabski and Officers Boyd and Young worked as a team. *Id.* The defendant himself confirmed the existence of the DOC warrant. RP 83, 101.

The DOC warrant was confirmed and thereafter a search was conducted on the vehicle the defendant had been washing. RP 60. The search was conducted by CCP Grabski with Officers Boyd and Young assisting him. RP 120. The DOC warrant stated “There is reasonable cause to believe the above named person has violated a condition of community custody.” CP 64 (exhibit 2, Appendix A). Inside the vehicle was a white pill and a prescription bottle containing eight prescription pills. RP 61. In the glovebox of the vehicle was paperwork in the defendant’s name. RP 61, 121. In the trunk was a loaded handgun. *Id.* Both the possession of a controlled substances and firearms are prohibited by the terms of the defendant’s community custody. RP 61-62.

In the sally port area of the jail the defendant told Officer Young that he had cocaine on his person. RP 97.

b. Trial Facts

CCO Grabski drove by the car wash in the area of 72nd and McKinley and observed the defendant. RP 163. CCO Grabski recognized the defendant from past incidents. *Id.* CCO Grabski directed Officers Boyd and Young to make contact with the defendant. RP 164.

A records check was conducted and a DOC escape warrant for the defendant's arrest was confirmed. RP 166, 208. After the DOC warrant was confirmed, CCO Grabski conducted a compliance check with the assistance of Officer Boyd. RP 169, 229. Inside the vehicle was a prescription bottle, a loaded handgun, and documents in the defendant's name. RP 169, 192, 214. Ammunition was also located with the firearm. RP 174. Another pill was located under the driver's seat. RP 187. On the defendant's person was \$1,495.00 in cash. RP 209. The defendant admitted to police that he had cocaine in his pants. RP 215, 236.

Detective Brian Vold testified that he tested the firearm recovered from the vehicle the defendant was driving and found the firearm to be operational. RP 256. The defendant stipulated that he had been previously convicted of a serious offense. CP 69, RP 262-263. Maureena Dudschus, a forensic scientist from the Washington State Patrol Crime Laboratory, tested the substance that was recovered from the defendant's person and determined it to be cocaine. RP 299. The cocaine recovered

appeared to be consistent with \$20.00 pieces of cocaine. RP 338. Ms. Dudschus also examined eight pills that were recovered from the vehicle the defendant was driving and determined that there was one pill of oxycodone and seven pills of dihydrocodeinone (also known as hydrocodone) and acetaminophen. RP 305.

Pejman Saadatzaheh, a deputy prosecutor, testified that he was assigned as the prosecutor in CDPJ, where arraignments and other hearings are heard. RP 308. He indicated that the defendant had been charged with felony offenses and had been required to post \$40,000 in bail. RP 310-311. One of the documents that appeared to have been signed by the defendant was an order setting an omnibus hearing for August 25, 2014. RP 314-315. On August 25, 2014, a bench warrant was authorized after the defendant failed to appear for that hearing. RP 316-318.

The defendant presented evidence that he was in custody in a different facility at the time he had failed to appear for his August 25, 2014, omnibus hearing. RP 353. The defendant was in a different facility in August 2014 for a separate DOC violation for failure to report to his CCO. RP 353-354. It had been the defendant's obligation to report to his CCO, which he did not do, causing a warrant to be issued. RP 354.

Verniss Modeste testified for the defendant. RP 372. She indicated that she has a child in common with the defendant. RP 373. Modeste testified that the firearm in the trunk of the vehicle belonged to her. RP 376. The defendant testified on his own behalf that he had cocaine in his possession when he was contacted by the police. RP 388. He denied knowing there was a gun in the vehicle and did not know why it was in his backpack. RP 390. The defendant admitted that the hydrocodone and oxycodone pills “possibly could be” his pills. RP 403-404.

The defendant stated that he missed his court date on August 25, 2014, because he was in the SCORE jail. RP 395. He admitted that he was in the SCORE jail on a DOC sanction because he had failed to report as directed and had a 20 or 25 day sanction. RP 396.

C. ARGUMENT.

1. THE SEARCH OF THE DEFENDANT’S VEHICLE WAS LAWFUL UNDER RCW 9.94A.631 WHEN THERE WAS A VALID ARREST WARRANT FOR THE DEFENDANT WHICH STATED THAT THERE WAS REASONABLE CAUSE TO BELIEVE THAT THE DEFENDANT VIOLATED A CONDITION OF COMMUNITY CUSTODY.

“When reviewing the denial of a suppression motion, an appellate court determines whether substantial evidence supports the challenged

findings of fact and whether the findings support the conclusions of law.” *State v. Garvin*, 166 Wn.2d 242, 249, 207 P.3d 1266 (2009) (citing *State v. Hill*, 123 Wn.2d 641, 644, 870 P.2d 313 (1994)); *State v. Winterstein*, 167 Wn.2d 620, 628, 220 P.3d 1226 (2009).

“Evidence is substantial when it is enough ‘to persuade a fair-minded person of the truth of the stated premise.’” *Id.* (quoting *State v. Reid*, 98 Wn. App. 152, 156, 988 P.2d 1038 (1999)). Credibility determinations are not reviewed on appeal, *State v. Gibson*, 152 Wn. App. 945, 951, 219 P.3d 964 (2009), and “[u]nchallenged findings of fact are treated as verities on appeal.” *State v. Afana*, 169 Wn.2d 169, 176, 233 P.3d 879 (2010).

Courts “review conclusions of law from an order pertaining to the suppression of evidence de novo,” *Id.*, *State v. Ramer*, 151 Wn.2d 106, 113, 86 P.3d 132 (2004), and “can uphold the trial court on any valid basis.” *Gibson*, 152 Wn. App. at 958.

The Fourth Amendment to the United States Constitution provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause.” Article I, section 7 of the Washington State Constitution mandates that “[n]o person

shall be disturbed in his private affairs, or his home invaded, without authority of law.”

“[A] warrantless search is per se unreasonable, unless it falls within one of the carefully drawn exceptions to the warrant requirement.”

State v. Patton, 167 Wn.2d 379, 386, 219 P.3d 651 (2009). Similarly, “[t]he ‘authority of law’ requirement of article I, section 7 is satisfied by a valid warrant, subject to a few jealously guarded exceptions.” *State v. Afana*, 169 Wn.2d 169, 176-77, 233 P.3d 879 (2010); *State v. Winterstein*, 167 Wn.2d 620, 628, 220 P.3d 1226 (2009). “Generally, the trial court suppresses evidence seized from an illegal search under the exclusionary rule or the fruit of the poisonous tree doctrine.” *State v. Parris*, 163 Wn. App. 110, 117, 259 P.3d 331 (2011).

“Although in some circumstances article I, section 7 provides broader protections than its federal counterpart, Washington law recognizes that probationers and parolees have a diminished right of privacy which, permits a warrantless search, based on probable cause.” *State v. Parris*, 163 Wn. App. 110, 117, 259 P.3d 331 (2011). “Parolees and probationers have diminished privacy rights because they are persons whom a court has sentenced to confinement but who are simply serving their time outside the prison walls; therefore, the State may supervise and scrutinize a probationer or parolee closely.” *Id.*

Specifically, RCW 9.94A.631 provides, in relevant part, that:

[i]f there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, a community corrections officer may require an offender to submit to a search and seizure of the offender's person, residence, automobile, or other personal property.

RCW 9.94A.631(1).

Hence, “[a] warrantless search of parolee or probationer is reasonable if an officer has well-founded suspicion that a violation has occurred.” *Parris*, 163 Wn. App. at 119. “Analogous to the requirements of a *Terry* stop, [i.e., under *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968)] reasonable suspicion requires specific and articulable facts and rational inferences,” and “[a]rticulable suspicion’ is defined as a substantial possibility that criminal conduct has occurred or is about to occur.” *Id.*

Division III has held that, in the context of probationer searches, there must be a nexus between the searched property and the alleged crime. *State v. Jardinez*, 184 Wn. App. 518, 338 P.3d 292 (2014). In *Jardinez*, the court held that RCW 9.94A.631 did not authorize a CCO to search a probationer’s portable media device when the probationer missed

an appointment and admitted to marijuana use. *Id.* at 521, 529. It does not appear that Division II has ruled on this issue³.

In this case, CCO Grabski confirmed the DOC warrant that was in effect at the time of the incident. RP 166, 208. The warrant's plain language states "there is reasonable cause to believe the above named person has violated a condition of community custody." CP 64 (exhibit 2, Appendix A). The trial court held, in part, that "Since there was reasonable cause in this case to believe that defendant had violated a condition or requirement of his sentence, the search of the vehicle by Officer Grabski and assisted by Officer Boyd was a valid search." CP 111-117. It appears the warrant was issued after the defendant failed to report to his CCO as directed. RP 59.

First, this court should find that the meaning of RCW 9.94A.631(1) is clear on its face and decline to follow *Jardinez*. In *State v. Parris*, 163 Wn. App. 110, 259 P.3d 331 (2011), this court held that a search of a probationer's memory cards was lawful. *Id.* at 119. In *Parris*, the defendant received community custody as part of his sentence for a failure to register as a sex offender conviction. *Id.* at 113. Parris had violated his probationary requirements by having a positive urinalysis test.

³ In an unpublished opinion, Division I has adopted the reasoning of *Jardinez*, 184 Wn. App. 518, 338 P.3d 292 (2014). See *State v. Lippincott*, 188 Wn. App. 1032 (2015).

Id. He also failed to provide proof of employment and had been arrested for driving with a suspended license. *Id.* at 114. At the time of his arrest, Parris was in the company of an underage female. *Id.* Parris' CCO also had received notice from Parris' mother that she was concerned about his drug use and stating that he had threatened to obtain a gun if DOC staff tried to arrest him. *Id.* The CCO, along with two police officers, went to Parris' residence and searched his room. *Id.* at 114. The search that was conducted included the search of a small zippered case containing portable electronic devices, which were also searched. *Id.* at 114-115. This court held that the search was lawful and that the "plain language" of the statute allowed for searches of person, residence, automobile or other personal property without a warrant. *Id.* at 119. The court held that probationers have no reasonable expectation of privacy in their vehicles and that the statute itself diminishes any expectation of privacy. *Id.* at 123. As the court in **Jardinez** acknowledged, "a broad reading of Parris would support a search of any offender's property upon violation of community custody convictions." **Jardinez**, 184 Wn. App. 518 at 528. This court should follow **Parris** and decline to follow **Jardinez**. If this court elects to follow **Jardinez**, however, this court can and should uphold the search of the defendant's vehicle as a valid inventory search.

The court can affirm on any grounds supported by the record.

State v. Bryant, 97 Wn. App. 479, 490-491, 983 P.2d 1181, *review denied*, 140 Wn.2d 1026, 10 P.3d 406, *cert. denied*, 531 U.S. 1016, 121 S. Ct. 576, 148 L. Ed. 2d 493 (2000). It is well settled that police officers may conduct a good faith inventory search following a lawful impoundment without first obtaining a search warrant. *State v. Tyler*, 166 Wn. App. 202, 209, 269 P.3d 379 (2012) (citing *State v. Bales*, 15 Wn. App. 834, 835, 552 P.2d 688, 689 (1976), *review denied*, 89 Wn.2d 1003 (1977), and *State v. Montague*, 73 Wn.2d 381, 385, 438 P.2d 571 (1968)). Unlike a probable cause search, where the purpose is to discover evidence of a crime, the purpose of the inventory search is to perform an administrative or caretaking function. *Tyler*, 166 Wn. App. at 209 (citing *State v. Dugas*, 109 Wn. App. 592, 597, 36 P.3d 577 (2001)). The principal purposes of an inventory search are: (1) to protect the owner's property; (2) to protect the police against false claims of theft by the owner; and (3) to protect the police from potential danger. *Tyler*, 166 Wn. App. at 209-10 (citing *State v. White*, 135 Wn.2d 761, 769-70, 958 P.2d 982 (1998), and *State v. Houser*, 95 Wn.2d 143, 154, 622 P.2d 1218 (1980)). See also *Illinois v. Lafayette*, 462 U.S. 640, 643, 103 S. Ct. 2605, 77 L. Ed. 2d 65 (1983) (an “inventory search constitutes a well-defined exception to the warrant requirement”); and *South Dakota v. Opperman*, 428 U.S. 364, 372, 96 S.

Ct. 3092, 49 L. Ed. 2d 1000 (1976) (“inventories pursuant to standard police procedures are reasonable”).

Here, the defendant was arrested on a valid warrant. CP 64 (exhibit 2), RP 116, 208. The defendant’s vehicle was parked in a car wash at the time he was arrested. RP 92. The defendant’s vehicle was going to be impounded because it was parked in the car wash. *Id.* The police then performed a proper inventory search of the vehicle.

The fact that the search led to the discovery of evidence later used against the defendant does not vitiate its legality:

When ... the facts indicate a lawful arrest, followed by an inventory of the contents of the automobile preparatory to or following the impoundment of the car, and there is found to be reasonable and proper justification for such impoundment, and where the search is not made as a general exploratory search for the purpose of finding evidence of a crime but is made for the justifiable purpose of finding, listing, and securing from loss, during the arrested person's detention, property belonging to him, then we have no hesitancy in declaring such inventory reasonable and lawful, and evidence of crime found will not be suppressed.

Tyler, 166 Wn. App. at 211 (quoting *Montague*, 73 Wn.2d 381, 385, 438 P.2d 571 (1968)).

Because this court can affirm the trial court’s ruling on any grounds, this court could either disagree with Divisions I and III and find that RCW 9.94A.631(1) authorized the CCO to conduct a search of the

defendant's vehicle, or this court could affirm on the basis that this was a valid inventory search after the defendant's lawful arrest.

2. THE TRIAL COURT PROPERLY FOUND THE DEFENDANT DID NOT MEET HIS BURDEN UNDER RCW 9A.76.170 OF THE AFFIRMATIVE DEFENSE TO BAIL JUMPING WHEN THE DEFENDANT MISSED A COURT DATE DUE TO A SEPARATE VIOLATION AND INCARCERATION OF THE DEFENDANT IN A DIFFERENT FACILITY.

The affirmative defense is articulated in RCW 9A.76.170(2), which provides:

It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement to appear or surrender, and that the person appeared or surrendered as soon as such circumstances ceased to exist.

The term "uncontrollable circumstances" is statutory defined as "an act of nature such as a flood, earthquake, or fire, or a medical condition that requires immediate hospitalization or treatment, or an act of man such as an automobile accident or threats of death, forcible sexual attack, or substantial bodily injury in the immediate future for which there is no time for a complaint to the authorities and no time or opportunity to resort to the courts." RCW 9A.76.010(4). A criminal defendant must prove this affirmative defense by a preponderance of the evidence. *State*

v. Frederick, 123 Wn. App. 347, 97 P.3d 47 (2004); *State v. White*, 137 Wn. App. 227, 152 P.3d 364 (2007).

In *State v. O'Brien*, 164 Wn. App. 924, 267 P.3d 422 (2011), the defendant failed to report to jail because he was incarcerated. *Id.* at 927. The State charged him with bail jumping. *Id.* The court found that the affirmative defense of “uncontrollable circumstances” was not available to the defendant because there was evidence that he did not surrender as soon as he was released from custody. *Id.* at 931-932. The defendant presented no evidence to establish that he did surrender as soon as he was released. *Id.*

In this case, the defendant testified that he was in the SCORE jail until August 26, 2014. RP 397. Similar to O'Brien, the defendant did not immediately surrender. On August 27, 2014, the day after his release, the defendant signed for a warrant quash hearing. CP 20. The defendant failed to present any evidence that he attempted to contact anyone prior to his August 24, 2014 court date to alert them that he was incarcerated in a different jail. “Uncontrollable circumstances” under RCW 9A.76.010(4) lists several examples of what those circumstances would be—flood, earthquake, fire, a serious medical condition, an automobile accident, threats of death, sexual attack, and serious injury. RCW 9A.76.010(4) does not, however, list “incarcerated elsewhere” among the reasons that

would create an uncontrollable circumstances, and the reason it does not list incarceration as a valid circumstances is clear from the reading of RCW 9A.76.170(2), which states that the defendant himself could not have contributed to the creation of the circumstance in reckless disregard of the requirement to appear. In this case, the defendant not only contributed to the creation of this circumstance that cause him not to appear, but he was the direct result of it. The defendant failed to appear because he had committed a separate violation of probation on a separate case in a separate jurisdiction. RP 396. The fact of the defendant's incarceration in SCORE is the direct result of his own actions. Therefore, RCW 9A.76.170(2) does not afford him the affirmative defense to bail jumping.

The defendant argues on appeal that the defendant had "every reason to believe that he would be released in time to attend the scheduled hearing" and therefore did not act in reckless disregard of his requirement to appear. Brief of Appellant, page 19. However, the defendant actually did not have a reason to believe that he would be released in time to appear for his omnibus hearing. By his own testimony, the defendant received a 25 day violation from DOC. RP 396. The defendant then changed his testimony to be that he received a 20 day violation from DOC. *Id.* Either way, the defendant was taken into custody on August 6, 2014.

RP 395. Whether the defendant was given 20 days or 25 days as a sanction, the earliest he could have been released was August 26, 2014, which was, in fact, the day he was released and was one day *after* his omnibus hearing on this case. Because the defendant created the situation by his own misconduct and also could not have reasonably believed that he was going to be released in time to appear for his omnibus hearing, he did act in reckless disregard of his requirement to appear. The trial court therefore correctly found that the defendant did not meet his burden by a preponderance of the evidence.

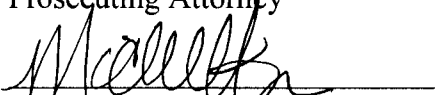
D. CONCLUSION.

This court should decline to follow *State v. Jardinez*, 184 Wn. App. 518, 338 P.3d 292 (2014), and follow the clear language of RCW 9.94A.631(1). If, however, this court declines to do so, this court can still affirm the search of the defendant's car as a lawful inventory search, as officers were preparing to impound the vehicle. Moreover, because the defendant failed to establish that he was entitled to the affirmative defense

of “uncontrollable circumstances” regarding the bail jumping charge, this court should also affirm that conviction.

DATED: MAY 31, 2016

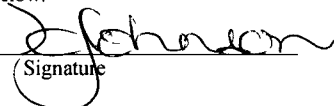
MARK LINDQUIST
Pierce County
Prosecuting Attorney


MICHELLE HYER

Deputy Prosecuting Attorney
WSB # 32724

Certificate of Service:

The undersigned certifies that on this day she delivered by ~~U.S. mail~~ or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.


Date 6/1/16 Signature

APPENDIX “A”

Secretary’s Warrant

DATE: 05-29-2014 11:06:49 PM Type: Received
SUBJECT: HQ985
Message:

TO: FIVE PC CITY JAIL
SUBJECT: LIVINGSTON, DARLAN DEMETRIUS

ATTN: BOOKING
OCA/DOC: 970720

WASHINGTON STATE DEPARTMENT OF CORRECTIONS

S E C R E T A R Y ' S W A R R A N T

SEX/M RAC/B DOB/08-16-1971 HGT/507 WGT/264 EYES/BRO HAIR/BLK

WARRANT TYPE: [X] OAA [] CCI [] MIS

NOT SUBJECT TO BAIL WE WILL EXTRADITE

DOC WILL COORDINATE TRANSPORTATION ARRANGEMENTS

WASHINGTON STATE DEPARTMENT OF CORRECTIONS HAS JURISDICTION ON ABOVE SUBJECT
FOR WASHINGTON STATE SUPERIOR COURT CRIMINAL CONVICTION(S):

CAUSE/PIERCE-101027396 CHARGE/POSSESSION OF CONTROLLED SUBSTANCE

THERE IS REASONABLE CAUSE TO BELIEVE THE ABOVE NAMED PERSON HAS VIOLATED A
CONDITION OF COMMUNITY CUSTODY. PURSUANT TO REVISED CODE OF WASHINGTON STATUTES
9.94A.6331 AND 9.94A.740, YOU ARE AUTHORIZED AND DIRECTED TO ARREST THE
OFFENDER AND PLACE HIM OR HER IN TOTAL CONFINEMENT PENDING DISPOSITION OF THE
VIOLATION.

DEPARTMENT OF CORRECTIONS STAFF WILL BE NOTIFIED TO SERVE THE OFFENDER WITH DOC
SECRETARY'S WARRANT.

DATED: 05/29/2014
REFER: WARRANTS/ WS
05/29/2014, 23:06:49
- MKE: AM
- To: HQ985
- ISN: 0428009LGH
- REF: 0426000084

DEPARTMENT OF CORRECTIONS
TEL: 360-725-8888

=====

14-149-1513

PIERCE COUNTY PROSECUTOR

June 01, 2016 - 7:18 AM

Transmittal Letter

Document Uploaded: 3-481189-Respondent's Brief.pdf

Case Name: State v. Darian Livingston

Court of Appeals Case Number: 48118-9

Is this a Personal Restraint Petition? Yes ☐ No ☒

The document being Filed is:

Designation of Clerk's Papers

Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: _____

Answer/Reply to Motion: _____

☒ Brief: Respondent's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: _____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Heather M Johnson - Email: hjohns2@co.pierce.wa.us

A copy of this document has been emailed to the following addresses:

marietrombley@comcast.net